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for information

REVIEW OF COUNTRY PARKS ORDINANCE, CAP. 208

PURPOSE

The purpose of this paper is to brief members on the review of Country Parks Ordinance, Cap. 208 (the Ordinance).

BACKGROUND

2. Since the enactment of the Ordinance in 1976, only two major amendments have been made. The amendment in 1989 changed the chairmanship of the Country Parks Board from the Director of Agriculture and Fisheries to any member of the Board as appointed by the Governor. The other amendment was made in May 1995 consequential to the enactment of the Marine Parks Ordinance. It included changing the title of Country Parks Authority to Country and Marine Parks Authority (the Authority) and the title of Country Parks Board to Country and Marine Parks Board (the Board); and the inclusion of marine parks and marine reserves into the jurisdiction of the Authority. Apart from the above changes, the Ordinance has remained largely unchanged for 21 years.

3. However, there have been significant political, social and economic changes in Hong Kong during this time. There is now much greater public expectation in conservation in general as well as in the protection and management of country parks. There is, therefore, a need to review the Ordinance to reflect current changes and demands, particularly in relation to the control of development within country parks and special areas.

4. The Drafting Instructions (DI) for amending the Ordinance were first discussed by the Board at its meeting in March 1996. In order to have wider views on the DI, the Board advised that views of interested groups should be sought. A list of groups whose advice was sought is given at Appendix . Meetings were also held with some groups to clarify certain points in the DI.

FEED-BACK FROM THE CONSULTATION EXERCISE

5. In the process of consultation, the following main areas were discussed:

(a) **Revocation of approved maps of country parks and special area**

Members of the Board and some green groups were concerned that the power of revocation is too sweeping. This has now been excluded in the proposed amendments.

(b) Application of the Ordinance to government

The proposal has the support of the Board and interested groups and has been included in the amendment.

(c) Control of Development in Country Parks

Under the existing legislation, the Country and Marine Parks Authority only has power to control new development in areas of country parks covered by a draft map. This power does not apply to country parks on approved maps or special areas. The Authority has to rely on Lands Department to perform the duty of controlling developments in those circumstances. It is proposed to extend the Authority's power of development control to cover government land in country parks on approved maps and special areas. No new development shall take place without the approval of the Authority.

In considering applications for development, the new provision requires the Authority to seek advice from the Board and provides a channel for appeal to the Administrative Appeals Board if anyone is aggrieved by a decision of the Authority. The new provision also empowers the Authority to attach terms and conditions to developments approved by him.

For unauthorized developments in country parks and special areas on government land, the Authority will be empowered to order cessation of development and to require remedial and restoration works at the expense of the responsible person. The proposed amendments also introduce penalties for any contravention to a maximum fine at level 5 (currently \$50,000) and imprisonment for 1 year. These provisions will provide country parks with better protection.

However, some green groups have mis-interpreted the proposed amendments and argued that the proposal would encourage or facilitate development to take place in country parks. This argument does not hold. The principal objective of the proposed amendments to the Ordinance is to strengthen the control of developments within country parks. The fear that the proposed amendments of the Ordinance will open up country parks for development is unfounded. The presumption against development in country parks and special areas will continue to be maintained. These amendments will not facilitate the process for any development. After detailed deliberation the Board supported the proposed amendments.

PROPOSED AMENDMENTS

6. Having collected views from members of the Board and interested groups, the proposed amendments of the Ordinance were discussed thoroughly by the Board and its Country Parks Committee, the following main amendments to the Ordinance were proposed with the support of the Board :-

- (a) strengthen the control of development on government land in country parks and special areas with heavy penalties for any contravention;

- (b) extending the application of the Ordinance to the government;
- (c) vesting the power of making regulations with the Secretary for Planning, Environment and Lands instead of the Governor-in-Council;
- (d) providing heavier penalties from a maximum fine of \$5,000 to level 4 (currently \$25,000) for contravention of the any regulations;
- (e) providing a procedure for appeal to the Administrative Appeals Board against the decision of the Authority in matters related to new development projects in proposed or designated country parks and special areas;
- (f) updating the duties of the Authority and the Board;
- (g) extending the procedure in public consultation to the designation of special areas; and
- (h) providing the power of forfeiture in respect of items, used in any offence, seized in country parks.

RESOURCES IMPLICATIONS

7. Additional resources will be required to control development inside country parks and special areas and to take enforcement action in accordance with the proposed amendments of the Ordinance.

PRESENT POSITION

8. Drafting of the legislation is in progress, and the Board will be consulted again when the final draft is available. We plan to introduce the Bill into the Legislature by the end of the 1997 subject to a slot being available.

Agriculture & Fisheries Department
May 1997

List of Interested Groups Consulted

1. Conservancy Association
2. The Countryside Heritage Society of Hong Kong
3. Federation of Hong Kong Hikers & Outdoor Activities Groups
4. Friends of the Country Parks
5. Friends of the Earth
6. Green Lantau Association
7. Green Power
8. Heung Yee Kuk
9. Hong Kong Mountaineering Union, Ltd.
10. Hong Kong Outward Bound School
11. Hong Kong Scouts Association
12. Lions Clubs International District 303
13. Orienteering Association of Hong Kong
14. Rotary Information Centre
15. World Wide Fund for Nature/Hong Kong